



Commission on Sentencing

64th Montana Legislature

PO BOX 201706
HELENA, MONTANA 59620-1706
(406) 444-3064

LEGISLATORS

REP. MATTHEW MONFORTON
REP. MARGARET MacDONALD
SEN. KRISTIN HANSEN
SEN. CYNTHIA WOLKEN

PUBLIC MEMBERS

HON. INGRID GUSTAFSON
MIKE BATISTA
DEREK GIBBS
DAN GUZYNSKI
JENNIE HANSEN
ROXANNE KLINGENSMITH

PUBLIC MEMBERS

LEANN MONTES
PETER OHMAN
MARY ANN RIES
MAJEL RUSSELL
DONNA WHITT

COMMITTEE STAFF

RACHEL WEISS, RESEARCH ANALYST
JULIANNE BURKHARDT, ATTORNEY
KRISTINA LIMING, SECRETARY

MINUTES

September 2, 2015
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the "Exhibits" is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. KRISTIN HANSEN
SEN. CYNTHIA WOLKEN

REP. MATTHEW MONFORTON
REP. MARGARET "MARGIE" MacDONALD

HON. INGRID GUSTAFSON
MIKE BATISTA
DEREK GIBBS
DAN GUZYNSKI
JENNIE HANSEN
ROXANNE KLINGENSMITH
LEANN MONTES
PETER OHMAN
MARY ANN RIES

MAJEL RUSSELL
DONNA WHITT

STAFF PRESENT

RACHEL WEISS, Research Analyst
JULIANNE BURKHARDT, Attorney
KRISTINA LIMING, Committee Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTION

- Elected Senator Cynthia Wolken as presiding officer.
- Elected Senator Kristin Hansen as vice presiding officer.
- Selected November 17-18 as next meeting date.

CALL TO ORDER and ROLL CALL

00:00:07 Sen. Hansen called the meeting to order at 8:59 a.m. She also read aloud the public comment guidelines.
00:01:28 The secretary took the roll. ([Attachment 3](#))
00:01:53 Sen. Hansen provided further information on commission etiquette.

Introductions

00:05:02 The commission members and staff introduced themselves.

Election of Officers

00:21:12 Sen. Hansen provided information on the election of officers and opened nominations for officers.

Motion/Vote

00:21:44 Commissioner Batista nominated Sen. Wolken as the presiding officer. The motion passed unanimously by voice vote.
00:22:25 Rep. MacDonald nominated Sen. Hansen as the vice presiding officer. The motion passed unanimously by voice vote.

SB 224 BACKGROUND

00:23:29 Sen. Wolken provided the commission with background information about Senate Bill 224.
00:26:25 Sen. Hansen introduced herself to the commission.

REVIEW OF STUDY PROCESS, DRAFT WORK PLAN, MONTANA'S REQUEST FOR JUSTICE REINVESTMENT TECHNICAL ASSISTANCE, AND COMMISSION BUDGET

00:28:24 Ms. Weiss provided the commission with a review of the study process and commission and staff responsibilities. She noted the Montana justice reinvestment request letter included in the commission's meeting packet

(EXHIBIT 1). Ms. Weiss reviewed the draft work plan (EXHIBIT 2), the commission budget, and provided an informational handout with the study process stages (EXHIBIT 3).

00:42:57 Susan Fox, Executive Director, Legislative Services Division, presented more information on the budget, the Council on State Government resource, and staff availability.

SURVEY OF RESOURCES RELATED TO SENTENCING/CRIMINAL JUSTICE LAWS

00:45:17 Julianne Burkhardt, Staff Attorney, provided the commission with a brief history of sentencing-type commissions and councils, the parameters of Montana's sentencing structure, and correctional policies, (EXHIBIT 4) and other resources.

Commission Discussion

01:03:33 Sen. Hansen commented about the availability of the information submitted by staff and presenters, and also requested distribution of Ms. Burkhardt's notes to the commission.

01:05:18 Commissioner Klingensmith asked about the presentation from Ms. Burkhardt.

01:05:58 Sen. Hansen spoke about an agenda reorganization and public comment concerns.

PUBLIC COMMENT

01:09:39 Mark Staples, Board of Pardon and Parole, commented about the board's parole operations and sentencing.

01:13:54 Patti Jacques commented about correctional system costs and the proposed new jail in Lewis and Clark County. She also spoke about a Montana State Hospital expansion.

01:18:19 Mary Ann Welbank commented about felon classification, incarceration length, disparities, and jurisdictions. She also submitted a letter to the commission (EXHIBIT 5).

01:24:28 Jim Smith, Montana Sheriffs and Peace Officers Association and Montana County Attorneys Association, offered assistance to the commission. He also commented about recent law enforcement deaths.

01:26:08 Mike Thatcher, Administrator, Community Counseling and Correctional Services, commented about various programs that assist in recovery.

01:35:41 Niki Zupanic, American Civil Liberties Union, offered her assistance to the commission throughout the interim.

01:37:03 Dave Armstrong, Chief Executive, Alternatives Inc., commented about prison population, mental health treatment, and drug addiction driven offenders.

01:43:53 Barry Eisenman commented about recidivism and sentencing.

Committee Questions

01:47:35 Rep. MacDonald asked Ms. Welbank about incentives to charge felonies to shift costs and the relation to criminal endangerment charges.

01:49:43 Sen. Hansen discussed legislative commission comment protocols.

01:51:19 **BREAK** - (reconvened at 11:06 a.m.)

COUNCIL ON STATE GOVERNMENTS (CSG) JUSTICE CENTER PRESENTATION ON

JUSTICE REINVESTMENT AND TECHNICAL ASSISTANCE

02:07:11 Sen. Hansen addressed the commission about a shift in the agenda.

02:08:16 Carl Reynolds, Chief Legal Counsel, CSG (**EXHIBIT 6**).

Commission Questions of Mr. Reynolds

02:29:16 Commissioner Ohman asked about juvenile offenders that have become adult offenders and their inclusion in the data analysis.

02:29:32 Commissioner Klingensmith asked about offender inclusion in the data analysis process.

03:08:17 Karen Chung, Policy Analyst, CSG

Commission Questions

03:24:56 Sen. Wolken requested policy themes from other states with the largest impacts and unique sentencing policies that impact our system. She also stated an interest in touring the Deer Lodge prison.

03:26:18 Sen. MacDonald asked about the presentation from CSG being available to view online.

03:26:52 **LUNCH** - (reconvened at 1:30 p.m.)

04:32:32 Ms. Weiss explained the materials that were passed out during the lunch break. 46-18-201 (**EXHIBIT 7**)
Timeline of Department of Corrections Programs (**EXHIBIT 8**)
Policy Options (**EXHIBIT 9**)
Department of Corrections Biennial Report (**EXHIBIT 10**)

OVERVIEW OF PREVIOUS RESEARCH PERFORMED FOR DEPARTMENT OF CORRECTIONS

04:34:06 Mr. Batista reviewed the information provided in the exhibits 7-10 that were distributed earlier and reviewed research performed for the Department of Corrections.

Commission Questions

05:13:13 Commissioner Ohman commented about recidivism.

05:13:57 Sen. MacDonald asked Director Batista about sentence duration and circular/linear program systems.

05:18:03 Sen. Hansen asked for introductions of the Department of Corrections staff present during the meeting.

PUBLIC COMMENT

05:20:24 Deb Matteucci, Board of Crime Control, commented about guilty but mentally ill offenders and early intervention efforts.

05:23:34 Colleen Ambrose, Legal Counsel, Department of Corrections, expressed her opinion about the need for communications with a victims' advocate to assist the commission with their responsibilities.

05:24:32 Wendy Farris expressed her concerns with the correctional system processes.

05:30:13 **BREAK** - (reconvened at 2:47 p.m.)

COMMISSION WORK SESSION

- 05:48:09 Sen. Hansen briefly explained and outlined the need for the commission to establish a sense of direction for the staff to move forward with specific topics. She also presented several topics that she found to be important and relevant for the commission to consider.
- 05:56:32 The commission discussed risk assessment, jail overcrowding, and determinant sentencing.
- 06:02:29 Sen. Hansen asked Mr. Reynolds and staff about risk assessment efficiency. She requested that staff compile information on risk assessments and Montana statutes being used and also the costs.
- 06:05:03 Commissioner Russell expressed concern for Indian offenders and jurisdictional issues.
- 06:06:48 Commissioner Hansen offered information regarding the risk assessment process currently being implemented by the Montana Department of Corrections.
- 06:08:25 Sen. Hansen asked Mr. Reynolds about risk assessment utilization and requested information regarding the assessments.
- 06:11:19 The commission discussed recidivism.
- 06:18:39 The commission discussed disparate sentencing and revocations. Staff was asked to incorporate information on the proposed new model penal code on the commission website.
- 06:31:18 The committee discussed misdemeanor penalty law review and a potential subcommittee to review the material in Montana Code Annotated. Ms. Burkhardt was asked to review the felony criminal code for any issues.
- 06:36:18 The commission discussed mental health issues and programs available to alleviate drug and mental health problems.
- 06:45:46 Ms. Weiss reviewed information requested by the commission for future meetings. These topics included recidivism, an overview of swift and certain sanctions, risk assessments, pre-trial programs, parole process, mental health efforts, drug courts, justice reinvestment efforts from other states, state and local jurisdictional issues, disparate sentencing, and state and federal jurisdictional issues.
- 06:53:21 The commission continued discussion on the work plan.
- 06:59:22 The commission discussed meeting dates and decided by consensus to meet November 17-18, 2015.

ADJOURN

07:00:25 Sen. Hansen adjourned the meeting at 4:00 p.m.